

§ 2.807

writing at the time of announcement or offer for sale that such equipment is subject to the FCC rules and that such equipment shall comply with the appropriate FCC rules before final delivery to the buyer or to centers of distribution.

(b) Parties responsible for verification of Class A digital devices, as defined in part 15 of this chapter, shall have the option of ensuring compliance with the applicable technical specifications of this chapter at each end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the party responsible for verification of the equipment.

(c) A digital device subject to the provisions of this chapter may be operated prior to a determination of compliance under the following conditions:

(1) Any digital device may be operated for the purpose of compliance testing.

(2) Any digital device may be operated for the purpose of demonstration at a trade show provided there is displayed a conspicuous notice that the device has not been tested for compliance.

(3) Any digital device may be operated at the manufacturer's facilities during developmental, design or preproduction states for evaluation of product performance and determination of customer acceptability.

(4) Where customer acceptability of a Class A digital device cannot be determined at the manufacturer's facilities because of size or unique capability of the device, that device may be operated at the user's site during development, design or preproduction stages for evaluation of product performance and determination of customer acceptability.

(5) For the purpose of paragraphs (c)(3) and (c)(4) of this section, the manufacturer's facilities are considered to include the facilities of the party responsible for compliance with the regulations, the manufacturer, and other entities working under the authorization of the responsible party in connection with the development and

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manufacture, but not marketing, of the equipment.

[54 FR 17712, Apr. 25, 1989, as amended at 56 FR 13082, Mar. 29, 1991]

§ 2.807 Statutory exceptions.

As provided by section 302(c) of the Communications Act of 1934, as amended §§ 2.803 and 2.805 shall not be applicable to:

(a) Carriers transporting radiofrequency devices without trading in them.

(b) Radiofrequency devices manufactured solely for export.

(c) The manufacture, assembly, or installation of radiofrequency devices for its own use by a public utility engaged in providing electric service: *Provided, however,* That no such device shall be operated if it causes harmful interference to radio communications.

(d) Radiofrequency devices for use by the Government of the United States or any agency thereof: *Provided, however,* That this exception shall not be applicable to any device after it has been disposed of by such Government or agency.

§ 2.809 Exemption for ISM equipment.

(a) The announcement and offer for sale of ISM equipment which is subject to the provisions of part 18 of this chapter, and which is in the conceptual developmental, design or pre-production stage is permitted prior to determination of compliance, provided the prospective buyer is advised in writing at the time of the announcement or offer for sale that said equipment is subject to FCC Rules and that said equipment shall comply with the appropriate FCC Rules prior to final delivery to the buyer or to the distribution centers.

(b) Manufacturers of nonconsumer ISM equipment shall have the option of insuring compliance with applicable technical specifications of this chapter at each end user's location after installation, provided the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the manufacturer of the equipment.

(c) ISM equipment subject to the provisions of this chapter may be operated prior to determination of compliance

and, when appropriate, obtaining authorization from the Commission under the following circumstances:

(1) While testing for purposes of determining equipment compliance.

(2) When demonstrating equipment at trade shows, provided a conspicuous notice is displayed to specify that the device has not been tested for compliance or approved by the Commission. If the device is offered for sale or lease, the provisions of § 2.809(a) shall apply.

(3) While testing at customer's premises to determine equipment acceptability.

[50 FR 36067, Sept. 5, 1985]

§ 2.811 Transmitters operated under part 73.

Sections 2.803 and 2.805 shall not be applicable to a transmitter operated in any of the Radio Broadcast Services regulated under part 73 of this chapter, provided the conditions set out in part 73 of this chapter for the acceptability of such transmitter for use under licensing are met.

§ 2.813 Transmitters operated in the Instructional Television Fixed Service.

Sections 2.803 and 2.805 shall not be applicable to a transmitter operated in the Instructional Television Fixed Service regulated under part 74 of this chapter provided the conditions in § 74.952 of this chapter for the acceptability of such transmitter for licensing are met.

§ 2.815 External radio frequency power amplifiers.

(a) As used in this part, an external radio frequency power amplifier is any device which, (1) when used in conjunction with a radio transmitter as a signal source is capable of amplification of that signal, and (2) is not an integral part of a radio transmitter as manufactured.

(b) After April 27, 1978, no person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of oper-

ation on any frequency or frequencies between 24 and 35 MHz.

NOTE: For purposes of this part, the amplifier will be deemed incapable of operation between 24 and 35 MHz if:

(1) The amplifier has no more than 6 decibels of gain between 24 and 26 MHz and between 28 and 35 MHz. (This gain is determined by the ratio of the input RF driving signal (mean power measurement) to the mean RF output power of the amplifier.); and

(2) The amplifier exhibits no amplification (0 decibels of gain) between 26 and 28 MHz.

(c) No person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of type acceptance in accordance with subpart J of this part and subpart C of part 97 or other relevant parts of this chapter. No more than 10 external radio frequency power amplifiers or amplifier kits may be constructed for evaluation purposes in preparation for the submission of an application for a grant of type acceptance.

NOTE: For the purposes of this part, an amplifier will be deemed incapable of operation below 144 MHz if the amplifier is not capable of being easily modified to increase its amplification characteristics below 120 MHz, and either:

(1) The mean output power of the amplifier decreases, as frequency decreases from 144 MHz, to a point where 0 decibels or less gain is exhibited at 120 MHz and below 120 MHz; or

(2) The amplifier is not capable of even short periods of operation below 120 MHz without sustaining permanent damage to its amplification circuitry.

(d) The proscription in paragraph (b) of this section shall not apply to the marketing, as defined in that paragraph, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier fabricated in not more than one unit of the same model in a calendar year by that operator provided the amplifier is for the amateur operator's personal use at his licensed amateur radio station and the